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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,135	01/23/2004	Yuji Tomiyama	0388-040112	6069
28289	7590	07/18/2006	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			AVERY, BRIDGET D	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/764,135		TOMIYAMA ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Bridget Avery		3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/14/05 &amp; 4/26/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species I (Figures 1-6) in the reply filed on April 17, 2006 is acknowledged. The traversal is on the ground(s) that examination of Species I-IV relating to claims 1-3, 5-7 and 9-12 will not broaden the search obligation. This is not found persuasive because the features defined in the non-elected species (claims 4 and 6-9) are not obvious variations of the features defined in claims 1-3, 5 and 10-12. Examination of claims 6-9 would require additional searching for a vent, a vent having an aperture smaller than that of the mesh member and a rectifier formed integrally with a mesh member.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 6-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 17, 2006.

3. An action on the merits of claims 1-5 and 10-12 follows.

4. The Information Disclosure Statements filed by applicant on July 14, 2005 and April 26, 2004 are acknowledged and have been considered.

### ***Claim Objections***

5. Claim 4 is objected to because of the following informalities: on line 1, "said" should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Oshikawa et al. (US Patent 6,655,486).

Oshikawa et al. teaches a working vehicle comprising: a vehicle body; a radiator (3) mounted on the vehicle body; a hood provided at a front portion of the vehicle body for covering the radiator (3); the hood including a hood body, a front-face grill portion provided at a front face of the hood body for introducing ambient air to the interior of the hood, and a pair of side-face grill portions (36) provided at right and left side faces of the hood body for introducing ambient air into the interior of the hood; and a rectifier member (40) for controlling the flow of ambient air introduced from a rear portion of the side-face grill portion (36). See column 5, lines 18-30. Re claim 5, the portions of the covers (16A, 16B) surrounding the grill/ports (38) is a flange on which the rectifier/plate (40) is formed.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hennessey et al. (US Patent 4,081,050).

Hennessey et al. teaches a working vehicle comprising: a vehicle body; a radiator mounted on the vehicle body; a hood provided at a front portion of the vehicle body for covering the radiator (36); the hood including a hood body, a front-face grill portion provided at a front face of the hood body for introducing ambient air to the interior of the hood, and a pair of side-face grill portions provided at right and left side faces of the hood body for introducing ambient air into the interior of the hood; and a rectifier member (panels 84, 86 of gas tank 40) for controlling the flow of ambient air introduced from a rear portion (note arrow to the left of reference number 76 in Figure 2) of the side-face grill portion (76). The features defined in claim 2 are clearly shown in Figure 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshikawa et al. ('486).

Oshikawa et al. teaches the features described above.

Oshikawa et al. lacks the teaching of a mesh member having a progressively increased aperture.

However, the provision of a progressively increased aperture is a change in size that would have been obvious to one having ordinary skill in the art, at the time the invention was made, to regulate the flow of air.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hennessey et al. ('050).

Hennessey et al. teaches the features described above.

Hennessey et al. lacks the teaching of a mesh member having a progressively increased aperture.

However, the provision of a progressively increased aperture is a change in size that would have been obvious to one having ordinary skill in the art, at the time the invention was made, to regulate the flow of air.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshikawa et al. ('486) in view of Knutson (US Patent 3,897,847).

Oshikawa et al. teaches the features described above.

Oshikawa et al. lacks the teaching of a condenser.

Knutson teaches a condenser positioned forwardly of a radiator.

Based on the teachings of Knutson, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add an air conditioner and

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a condenser to the vehicle of Oshikawa et al. to provide cooling for the driver during elevated temperatures.

1.1. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshikawa et al. ('486) in view of Templeton et al. (US Patent 5,634,525).

Oshikawa et al. teaches the features described above.

Oshikawa et al. lacks the teaching of a seal.

Templeton teaches a seal (42, 45), a hinge (21) and a reinforcing frame member/rib (39).

Based on the teachings of Templeton, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a seal and a reinforcing hinge to the vehicle of Oshikawa et al. to prevent hot air from re-circulating from the engine compartment to be passed back through the radiator.

12. Claim 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennessey et al. ('050) in view of Templeton (US Patent 5,634,525).

Hennessey et al. teaches the features described above.

Hennessey et al. lacks the teaching of a seal.

Templeton teaches a seal (42, 45), a hinge 21 and a reinforcing frame member/rib (39).

Based on the teachings of Templeton, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a seal and a

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reinforcing hinge to the vehicle of Hennessey et al. to prevent hot air from re-circulating from the engine compartment to be passed back through the radiator.

**Conclusion**

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yabe shows an engine cooling air passage for construction equipment.

Falk et al. shows an air intake for a motorized vehicle.

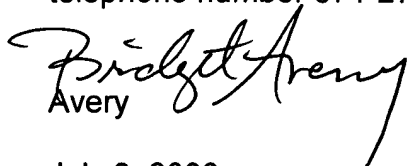
Surridge shows an engine enclosure with cooling air baffle.

Holm et al. shows a work vehicle.

Takeuchi et al. shows an airflow regulating apparatus for radiator.

Morrison shows a radiator shell.

14. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

  
Avery

July 3, 2006



CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600